

Serial No.: 10/606,062

Attorney Docket No: MCS-019-03

### REMARKS

In response to the Office Action dated November 27, 2007, claims 19, 21, and 22 have been amended and claims 7 and 18 have been canceled. Therefore, claims 1-3, 8-15, 19, 21-25, and 27-29 are now in the case. In light of the amendments and arguments set forth herein, reexamination and reconsideration of the application are requested.

#### Allowable Subject Matter

The Applicant gratefully acknowledges and appreciates the allowance of claims 1-3, 8-15, 23-25, and 27-29.

#### Section 101 Rejections

The Office Action rejected claims 7, 18, 19, 21, and 22 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. In particular, the Office Action stated that in light of the Applicant's specification, the "claims, therefore, recite nothing but the physical characteristics of a form of energy and as such are directed to non-statutory subject matter."

Before responding, it should be noted that on the "Office Action Summary" page the rejected claims are 7, 18, 19, 21, and 22, while on page 2 of the Office Action the rejected claims are claim 7, 18, 19, 22 and 23. As it appears that the latter is incorrect, for purposes of response the Applicant has assumed that claims 7, 18, 19, 21, and 22 are the claims rejected under Section 101.

In response, the Applicant has canceled claims 7 and 18 and have amended claims 19, 21, and 22. In particular, claims 19, 21, and 22, now recite a "computer-readable storage medium having stored thereon computer-executable instructions for encoding video data having video frames." Claims 19, 21, and 22, therefore, now recite a process that is implemented in computer-executable instructions store on a computer-readable storage medium. This is statutory subject matter.

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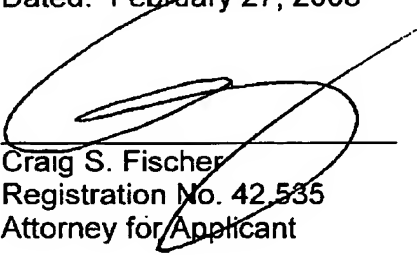
Accordingly, the Applicant respectfully submits that amended independent claim 19 is patentable under 35 U.S.C. § 101 based on the amendments to claim 19, and the legal and technical arguments set forth above and below. Moreover, claims 21 and 22 depend from amended independent claim 19, and thus also contain patentable subject matter (MPEP § 2143.03). The Applicant, therefore, respectfully requests reexamination, reconsideration and withdrawal of the rejection of claims 7, 18, 19, 21, and 22 under 35 U.S.C. § 101.

#### Conclusion

In view of the amendments to claims 19, 21, and 22, the cancellation of claims 7 and 18, and the arguments set forth above, the Applicant submits that remaining claims 1-3, 8-15, 19, 21-25, and 27-29 are in condition for immediate allowance. The Examiner, therefore, is respectfully requested to withdraw the outstanding rejections of the claims and to pass all of the pending claims of this application to issue.

In an effort to expedite and further the prosecution of the subject application, the Applicant kindly invites the Examiner to telephone the Applicant's attorney at (805) 278-8855 if the Examiner has any comments, questions or concerns, wishes to discuss any aspect of the prosecution of this application, or desires any degree of clarification of this response.

Respectfully submitted,  
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